

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF REVENUE SERVICES**GENERAL PROVISIONS**
Rule No. 103 (18-125 CMR 103)**RECORDKEEPING AND RETENTION**

SUMMARY: The purpose of this rule is to define the requirements for the maintenance and retention of books, records, and other sources of information necessary for the determination of a person's correct tax liability. The rule applies to all taxes, including sales tax, use tax, service provider tax, and corporate income tax. It is also the purpose of the rule to address these requirements where all or a part of a taxpayer's records are received, created, maintained or generated through various computer, electronic and imaging processes and systems.

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SECTION .01 Definitions

- A. "Assessor" means the State Tax Assessor or any designated agent.
- B. "Database management system" means a software system that controls, relates, retrieves, and provides access to data stored in a database.
- C. "Electronic data interchange" or "EDI" means the computer to computer exchange of business transactions in a standardized structured electronic format.
- D. "Hard-copy record" means any document, record, report or data compilation printed on paper.
- E. "Machine-sensible record" means a collection of related information in an electronic format. Machine-sensible records do not include hard-copy records

that are created or recorded on paper or stored in or by an imaging system such as a microfilm, microfiche, or storage-only imaging system.

- F. "Storage-only imaging system" means a system of computer hardware and software that provides for the storage, retention and retrieval of documents originally created on paper. It does not include any system, or part of a system, that manipulates or processes information or data contained on a document in any manner other than to reproduce the document in hard copy or as an optical image.

SECTION .02 Recordkeeping requirements generally; for registered retailers.

- A. Every taxpayer, including every retailer required to be registered under Title 36 Chapter 211, must maintain all records that are necessary to determine the correct tax liability. All required records must be made available on request by the State Tax Assessor or the assessor's authorized representatives as required by Title 36 Section 112(4).
- B. A taxpayer who retains the required records in both machine-sensible and hard-copy formats must make the records available to the assessor in machine-sensible format upon request.
- C. A taxpayer may demonstrate tax compliance with traditional hard-copy documents or reproductions thereof, in whole or in part, whether or not the taxpayer also has retained or has the capability to retain records on electronic or other storage media in accordance with this rule. However, this subsection does not relieve the taxpayer of the obligation to comply with subsection B.
- D. Records kept by a retailer doing business in this State must include all bills, receipts, cash register tapes, sales invoices, purchase invoices and any other documentation supporting the entries made in the normal books of account and ledgers maintained by the average prudent business person, as well as all related reports produced from these records. The records will also include all documents, schedules or work papers used in connection with the preparation of tax returns filed by the retailer.

The minimum information required of a retailer includes:

- (1) Detailed records of all taxable sales of tangible personal property made in Maine, including all components of the total sales price of such sales.
- (2) Detailed records of all taxable sales of taxable services made in Maine, including all components of the total sale price of such sales.
- (3) Detailed records of all exempt sales of tangible personal property or taxable services made in Maine, including all components of the total sale price of such sales.
- (4) Detailed records of all purchases of tangible personal property and taxable services purchased for use or consumption in Maine, including all components of the total purchase price of such items.

SECTION .03 Recordkeeping requirements — machine-sensible records

A. General requirements:

- (1) Machine-sensible records used to establish tax compliance must contain sufficient transaction-level detail information so that the details underlying the machine-sensible records can be identified and made available to the State Tax Assessor upon request. A taxpayer may discard duplicated records and redundant information provided that the taxpayer's responsibilities under this rule are met.
- (2) At the time of an audit, the retained records must be capable of being retrieved and converted to a standard record format.
- (3) Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer who does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct such a record solely for State of Maine tax purposes.

B. Electronic data interchange requirements:

- (1) If a taxpayer uses electronic data interchange processes and technology, the level of record detail, in combination with other records related to the transactions, must be equivalent to that contained in an acceptable paper record. For example, the retained records should contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status, shipping detail, etc. Codes may be used to identify some or all of the data elements, provided that the taxpayer provides a method that allows the assessor to interpret the coded information.
- (2) The taxpayer may capture the information necessary to satisfy paragraph (1) above at any level within its accounting system and need not retain the original EDI transaction records if the audit trail, authenticity, and integrity of the retained records can be established.

Example: A taxpayer using electronic data interchange technology receives electronic invoices from its suppliers. The taxpayer retains the invoice data from completed and verified EDI transactions in its accounts payable system rather than retaining the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system captures information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information), the taxpayer also retains other records, such as its vendor master file and product code description lists and makes them available to the assessor. Thus, this taxpayer need not retain its EDI transaction for tax purposes.

C. Electronic data processing system requirements:

The requirements for an electronic data processing accounting system are similar to those for a manual accounting system, in that an adequately designed accounting system incorporates methods and records that will satisfy the requirements of this rule.

D. Business process information:

- (1) Upon the request of the assessor, the taxpayer must provide a written description of the business process that created the retained records. This description must include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the integrity of the records.
- (2) The taxpayer must be able to demonstrate:
 - A. the functions being performed as they relate to the flow of data through the system;
 - B. the internal controls used to ensure accurate and reliable processing, and
 - C. the internal controls used to prevent unauthorized addition, alteration, or deletion of retained records.
- (3) The following specific documentation is required for machine-sensible records retained pursuant to this rule:
 - A. record formats or layouts;
 - B. field definitions (including the meaning of all codes used to represent information);
 - C. file descriptions (e.g., data set name); and
 - D. detailed charts of accounts and account descriptions.

SECTION .04 Records maintenance requirements

A. The taxpayer's computer hardware or software must accommodate the extraction and conversion of retained machine-sensible records.

B. Maine Revenue Services recommends that taxpayers refer to the standards established by the federal National Archives and Record Administration (NARA) for guidance on the maintenance and storage of electronic records, such as the labeling of records, the location and security of the storage environment, the creation of back-up copies, and the use of periodic testing to confirm the continued integrity of the records. The NARA standards may be found at 36 Code of Federal Regulations, Part 1234.

SECTION .05 Access to machine-sensible records

The taxpayer must provide the State Tax Assessor access to machine-sensible records in one or more of the following manners:

- A. The taxpayer may arrange to provide the assessor, either directly or through a third party, with the hardware, software and personnel resources to enable the extraction of the machine-sensible records, in bulk, to an acceptable media form, for further review by the State Tax Assessor; or to convert the machine-sensible records to a standard record format specified by the assessor.
- B. The taxpayer and the assessor may agree on other means of providing access to the machine-sensible records taking into account the taxpayer's facts and circumstances.

SECTION .06 Taxpayer responsibility and discretionary authority

- A. In conjunction with meeting the requirements of section .03, a taxpayer may create files solely for the use of the State Tax Assessor. For example, if a database management system is used, it is consistent with this rule for the taxpayer to create and retain a file that contains the transaction-level detail from the database management system and that meets the requirements of section .03. The taxpayer must document the process that created the separate file to show the relationship between that file and the original records.
- B. A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract does not relieve the taxpayer of its responsibilities under this rule.

SECTION .07 Alternative storage media

- A. For purposes of storage and retention, a taxpayer may convert hard-copy documents received or produced in the normal course of business and required to be retained under this rule to microfilm, microfiche or other storage-only imaging systems and may discard the original hard-copy documents, provided the conditions of this section are met. Documents that may be stored on these media include, but are not limited to, general books of account, journals, voucher registers, general and subsidiary ledgers, and supporting records of details, such as sales invoices, purchase invoices, exemption certificates, credit memoranda, bills of lading and delivery tickets.
- B. Microfilm, microfiche, and other storage-only imaging systems must meet the following requirements:
 - (1) Documentation establishing the procedures for converting the hard-copy documents to microfilm, microfiche, or other storage only imaging system must be maintained and made available upon request. The documentation must include, at a minimum, a sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance.
 - (2) Procedures must be established for the effective identification, processing, storage, and preservation of the stored documents and for making them

available for the period they are required to be retained by 36 MRSA § 135 (see section .09 below).

- (3) Upon request by the State Tax Assessor, a taxpayer must provide facilities and equipment for reading, locating, and reproducing any documents maintained on microfilm, microfiche, or other storage-only imaging systems so that records may be reviewed in a prompt and efficient manner.
- (4) When displayed on storage-only imaging equipment or reproduced on paper, the documents must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers.
- (5) All data stored on microfilm, microfiche, or other storage-only imaging systems must be maintained and arranged in a manner that permits the expeditious location of any particular record.
- (6) There must be no substantial evidence that the microfilm, microfiche or other storage-only imaging system lacks authenticity or integrity.

Section .08 Effect on hard-copy recordkeeping

- A. Except as otherwise provided in this section, the provisions of this rule do not relieve taxpayers of the responsibility to retain hard-copy records that are created or received in the ordinary course of business as required by existing law and rules.
- B. If hard-copy records are not produced or received in the ordinary course of transacting business (e.g., when the taxpayer uses electronic data interchange technology), such hard-copy records need not be created.
- C. Hard-copy records generated at the time of a transaction using a credit or debit card or electronic funds transfer must be retained unless all the details necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this rule. Such details include those listed in section .03.
- D. This rule does not preclude the assessor from requiring hard-copy printouts in lieu of retained machine-sensible records at the time of an audit.

Section .09 Records retention - time period

Records required to be retained pursuant to the terms of this Rule must be retained for the same time period as all other records are required to be kept for the applicable tax. Title 36 MRSA §135 requires that records pertaining to the Maine Income Tax (36 MRSA Part 8), the Maine Estate Tax (36 MRSA Chapter 575) and the Maine Mining Excise Tax (36 MRSA Chapter 371) must be retained as long as is required by applicable federal law and regulation. Records pertaining to the Special Fuel Tax user reports filed pursuant to section 36 MRSA

§3209, subsection 2 and the International Fuel Tax Agreement must be retained for at least 4 years. Records pertaining to all other taxes imposed by this Title 36 must be retained for a period of at least 6 years. All records must be kept in such a manner as to ensure their security and accessibility for inspection by the State Tax Assessor or any designated agent.

AUTHORITY: 36 MRSA §§ 112, 135

EFFECTIVE DATE: January 12, 2006